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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Written statement submitted by Asamblea Permanente por los Derechos Humanos (APDH) a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[8 April 1997]

Neo-liberalism and State mafias

1. Barely four years from the end of a decade, a century and a millennium "... the conjunction of these three events is not sufficient to explain our disturbing feeling that, today as never before in our lives, something is ending and something is also beginning", as leading Mexican intellectual Carlos Fuentes so fittingly put it.

2. The wave of democratization throughout our continent, the result of a complex international trend, has brought with it an extremist economically oriented and technocratic world view, which, under the pretext of championing free markets, is forcibly reorganizing societies along polarized and exclusive lines.

3. The figures for Argentina are, with slight variations, comparable to those of many Latin American countries. The National Institute of Statistics and Censuses indicates that 28 per cent of the population is living in extreme poverty, as defined with absolute clarity by the Special Rapporteur on human rights and extreme poverty in his last report (E/CN.4/Sub.2/1996/13). The unemployment and underemployment rate was 31 per cent in October 1996. During the period 1995/96, the housing crisis affected 33 per cent of the population, i.e. more than 12 million people had housing problems. In 1991, 39 per cent of teenagers from poor homes dropped out of school; in 1996 the figure rose to 48 per cent. 1/

4. These few statistical examples do not provide an exhaustive picture of the serious human rights situation that continues to afflict those that have been eternally excluded from economic life, a situation which has, moreover, produced a new phenomenon: the socially excluded. This is a term used to describe people who, prior to the neo-liberal adjustment policies, were established in the labour market and had access to security, justice, health and education and who today swell the ranks of the marginalized living in extreme poverty.

5. In their work on neo-liberalism, poverty and inequalities in the third world, French economists Pierre Salama and Jacques Valier, referring to the informal labour sector with respect to underemployment and lack of social benefits, state:

> "The informal sector of the informal sector thus represents to the nth degree a society that practices an increasingly obvious social apartheid".

6. The Bishop Emeritus of the city of Viedma, Monsignor Esteban Hesayne, a member of the Executive Board of Asamblea Permanente por los Derechos Humanos, recently sent a letter to the President of the Nation, the most significant parts of which read as follows: "The institutional situation is so serious that millions of Argentines are practically doomed to a slow death from malnutrition" and, referring to lack of Government aid, "... aid is not a Christian project, but conversion. The conversion of a selfish economy to a humane and supportive economy, not like the one in which we are living today". 2/

7. These policies of adjustment and capital concentration are violations of the International Covenant on Economic, Social and Cultural Rights, and, above and beyond the technical assessment of their econometric formulas, the adjustment policies produce distortions in certain practices of those who wield economic and political power, as a result of which corruption and impunity have become the most serious threats to the security and stability of democracy and therefore violate human rights and fundamental freedoms.

8. The reason why this is happening in Argentina is that President Menem's administration, in its determination to reorganize the economy in accordance with the laws of the marketplace, has deactivated State responsibilities in areas that are essential in any economy and are obligations under the national Constitution and the International Covenants to which Argentina is a party. Among these are health, education, security and justice.

9. This lack of a State presence has brought a rapid deterioration in the judiciary. A striking example has occurred in San Luis province, where the Governor himself has initiated a campaign of pressure and persecution against certain members of the judiciary, who had complained about the Government. The pressure is so intense that members of the Cabinet and the Chief of Police himself have begun to agitate for the resignation of the Superior Court. Prompt action is needed by the Special Rapporteur on the independence of the judiciary if the situation is not to deteriorate further.

10. Impunity in Argentina is obvious, as attested by the proven complicity of the security forces in the attacks on the Israeli Embassy and the Asociación Mutual Israelita Argentina (Argentine Jewish Mutual Aid Association) (AMIA).

11. The treacherous crime against magazine reporter José Luis Cabezas, followed by threats against 37 other journalists throughout the country, paint a general picture of uncertainty, anxiety and concern. Mr. Cabezas was abducted, shot to death with his hands handcuffed behind his back and his body incinerated in his own automobile on 25 January of this year. The crime was committed in an Atlantic coast health resort, among luxurious homes occupied by powerful politicians and businessmen, including Mr. Eduardo Duhalde, the present Governor of Buenos Aires province and potential presidential candidate of the ruling party.

12. The public's conviction that the police of Buenos Aires province were clearly responsible for such a treacherous crime forced the Governor to make 47,000 men available. It is significant to note that this same police force received instruction under the programmes of technical cooperation in the field of human rights during 1996.

13. The annual report of the Inter-American Press Association states that whenever a journalist is murdered in Latin America, a small portion of democracy, the rule of law, freedom and hope for equality on the continent dies with him.

14. Attention is drawn to these circumstances because there is a tendency to assume that respect for human rights in those States which have a democratic system is guaranteed by the mere existence of that system. Nothing could be further from the truth. Suffice it to add that the Argentine Government has admitted to the Inter-American Commission on Human Rights its responsibility in the abduction and disappearance of Argentine nationals Baigorria, Guardatti and Garrido, during President Menem's term in office; it is currently engaged in negotiations with that high-level regional forum concerning the amounts of compensation to be paid to the victims' relatives.

15. The following was stated at the latest international seminar on impunity 3/: "Impunity is basically the failure to impose criminal penalties on the violators of human rights, with consequences that affect the whole of society" ... "It is the institutionalization of injustice by those who are called upon to do justice". This occurs because neo-liberal policies tend towards social exclusion and unfair polarization in the distribution of sacrifices and wealth. The result is a State that deliberately fails to fulfil its responsibilities, a web of corruption and drug-trafficking that

taints both public and private life, plus hired gunmen trained in the commission of heinous offences during past dictatorships. All dominated by the lethal culture of easy money.

16. Under these conditions, the transition from the terrorist States of the dictatorships to market-economy democracies is creating large cracks in which the State mafias have established themselves under cover of impunity. It may thus be said that, just as the national security doctrine was the ideological foundation for State terrorism during the dictatorships, in the democracies, impunity for the crimes against humanity of the past and impunity for the corruption and crimes of the present is producing State mafias which seriously endanger the institutional and representational system by undermining the consensus that legitimizes the democratic regime.

17. This reopens a debate which was held in the United Nations when the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights were being adopted. This new age of so-called globalization of the economy is reviving the debate that gave rise to two covenants instead of one. Today as yesterday, civil and political rights cannot be guaranteed if economic, social and cultural rights are not, and vice versa.

18. In short, to cite a report recently published in Argentina,

> "We must put an end to the great fallacy produced by the Washington consensus, the 'trickle-down theory' (according to which) first we have growth and the market then makes this growth trickle down to the rest of society, from top to bottom.
>
> It is absolutely false to contend that if market forces are given free rein they can resolve social injustices. They have never actually done so anywhere. All that occurs is a growing split in society which accentuates existing inequalities.
>
> The only things that trickle down are hunger, insecurity and desperation. Solidarity with others is replaced by absolute selfishness. The State's restraint and withdrawal into its policeman's role is a sign of neither neutrality nor efficiency, but fosters the increasing concentration of profits in the hands of a few.
>
> And behind this State, big business, the mafias, corruption and hired killers can be seen." 4/

19. As Carlos Fuentes states, in these times, attention must be paid to new forms of gross violations which call for different types of controls and, therefore, different ways of handling cooperation and international assistance.

20. In the light of the foregoing, the Commission on Human Rights should implement effective mechanisms for ensuring that technical assistance is given to those States which fully respect their international obligations in the field of human rights.

Notes

1/ Sources: APDH, Department of Housing, INDEC, World Bank, Movimiento Ecuménico por los Derechos Humanos, Argentine report on human development.

2/ La Nación, 7 March 1997, p. 7.

3/ "Conclusions of the International Seminar on Impunity and Democracy", Santiago, Chile, 13-15 December 1996.

4/ Acción, pp. 8 and 9, 20 February 1997.